

TRANSCRIPT OF PROCEEDINGS

MSHA PUBLIC HEARING)
)
PROPOSED RULE ON EMERGENCY EVACUATIONS)
)
)

Pages: 1 through 77

Place: Grand Junction, Colorado

HERITAGE REPORTING CORPORATION

Official Reporters

1220 L Street, N.W., Suite 600

Washington, D.C. 20005-4018

(202) 628-4888

hrc@concentric.net

AB33-HEAR-2

TRANSCRIPT OF PROCEEDINGS

Date: February 6, 2003

HERITAGE REPORTING CORPORATION

Official Reporters

1220 L Street, N.W., Suite 600

Washington, D.C. 20005-4018

(202) 628-4888

hrc@concentric.net

AB33-HEAR-2

1 MSHA PUBLIC HEARING)

2 PROPOSED RULE ON EMERGENCY EVACUATIONS)

3)

4 GRAND JUNCTION, COLORADO

5 REPORTER'S TRANSCRIPT -- February 6, 2003

6 -----
7 HEARING PANEL:

8 WILLIAM CROCCO

9 EDWARD SEXAUER

10 MARVIN W. NICHOLS, SR., Moderator

11 JENNIFER HONOR

12 CARL LUNDGREN

13 -----
14 The above-entitled cause came on for
15 Public hearing at the Holiday Inn Conference Room, 755
16 Horizon Drive; Grand Junction, Colorado on February 6,
17 2003.

P-R-O-C-E-E-D-I-N-G-S

(The following proceedings were had at 8:59
a.m)

1

2 MR. NICHOLS: Good morning, everybody. If
3 we could take a seat, we'll get started here.

4 Good morning, again. My name is Marvin
5 Nichols. I am the Director of the Office of Standards
6 and Variances for the Mine Safety and Health
7 Administration.

8 I have some of my other colleagues here with
9 me today. Carl Lundgren at the back desk. He is an
10 economist with my office. Jennifer Honor. Jennifer is
11 with the Solicitor's office. She is one of our many
12 in-house lawyers. Ed Sexauer. Ed is acting Deputy
13 Director of my office. And Bill Crocco, who is the
14 Chief Accident Investigations Manager for coal mine
15 safety and health.

16 On behalf of Dave Lauriski, the Assistant
17 Secretary of Labor for mine safety and health, I want to
18 welcome all of you here today. This is the second of
19 four hearings we have scheduled on the proposed rule for
20 emergency evacuations for underground coal mines.

21 The purpose of these hearings is to obtain
22 comments from interested members of the public on the
23 proposed rule for emergency evacuation. We will use
24 these comments to determine the best way to assure that
25 underground coal miners will be protected during a mine

1 emergency.

2 (An off-the-record discussion was had.)

3 The first of our hearings was this past
4 Tuesday, the 4th, over in Lexington, Kentucky. We have
5 two other hearings scheduled next week. We will be in
6 Charleston, West Virginia on February 11; that's
7 Tuesday. And Pittsburg, Pennsylvania on February 13th;
8 that's Thursday.

9 The initial announcement of these four
10 rule-making hearings was published in the Federal
11 Register on December 12, 2002. Copies of this Federal
12 Register document are available in the room back at the
13 sign-in table.

14 The proposed rule that is the subject of
15 these hearings is identical to the Emergency Temporary
16 Standard published on December 12, 2002. The proposed
17 rule would establish requirements for mine evacuations
18 in response to mine fires, explosion, and gas or water
19 inundation emergencies.

20 I'd like to give you some background which
21 led us here today. Under the Section 101(b) of the
22 Federal Mine Safety and Health Act of 1977 the secretary
23 has the authority to issue an emergency temporary
24 standard if it is determined that miners are exposed to
25 grave danger from exposure to substances or agents

1 determined to be toxic or physically harmful, or to
2 other hazards, and that such emergency standard is
3 necessary to protect miners from such danger.

4 On December 12, 2002, MSHA issued an
5 emergency temporary standard in response to the grave
6 dangers which miners are exposed to during fires,
7 explosion, and gas or water inundation emergencies.

8 The recent death of 14 miners at two
9 underground coal mines punctuates the need for MSHA to
10 address proper training and mine emergency evacuation
11 procedures.

12 The emergency temporary standard was
13 effective immediately upon publication, and is effective
14 until superseded. Under the Mine Act, the secretary
15 shall have nine months from the date of publication of
16 the emergency temporary standard to promulgate a
17 mandatory health and safety standard which will
18 supersede the emergency temporary standard.

19 By law, the emergency standard shall also
20 operate as the proposed rule. That proposed rule is the
21 subject of this rule making. We are here today to
22 receive comments on MSHA's proposed rule for emergency
23 evacuation and to get your impressions on how the
24 regulation has worked since it was issued December 12th,
25 2002.

1 The major provisions of the proposed rule
2 would require, one, operators of our underground coal
3 mines would designate for each shift that miners are
4 working underground, a responsible person in attendance
5 at the mine to take charge during mine fire, explosion,
6 and gas or water inundation emergencies.

7 Two. The designated responsible person must
8 have current knowledge of various mine systems that
9 protect the safety and health of miners.

10 Three. The responsible person must initiate
11 and conduct an immediate mine evacuation where there is
12 a mine emergency which presents an imminent danger to
13 miners due to fire, explosion, or gas or water
14 inundation.

15 Four. Only properly trained and equipped
16 persons who are necessary to respond to a mine emergency
17 may remain underground.

18 Five. The existing requirements for a
19 program of instruction for firefighting and evacuation
20 would be expanded to address not only fires, but also
21 explosions, and gas or water inundation emergencies.

22 Six. Part 48 training requirements would be
23 revised to reflect that the annual refresher training
24 includes a review of mine fire, explosion, and gas or
25 water inundation emergency evacuation and firefighting

1 plans in effect at the nine.

2 So far, MSHA has received several comments
3 on the proposed rule. One commenter recommended that we
4 expand coverage of the rule to include metal and
5 nonmetal mines.

6 Another commenter supported portions of the
7 rule, but felt that some portions were ambiguous and
8 allowed MSHA too much leeway to second guess operator
9 decisions on whether to evacuate.

10 Finally, the commenter felt that the
11 proposed rule fosters the idea that the first step in a
12 mine emergency is always to evacuate the mine.

13 The remaining two commenters offered a
14 series of suggestions on how to improve the proposed
15 rule. We have posted all of these on our web page at
16 www.MSHA.gov.

17 As I mentioned, we had the public meeting in
18 Lexington, Kentucky on Tuesday; and we will get those
19 comments up on the web site as soon as we get the
20 transcript.

21 The issues surrounding the safety and health
22 of miners are important to MSHA. We will use the
23 information provided by you and all the commenters to
24 help us decide how to best proceed through this rule
25 making.

1 These four hearings will give miners, mine
2 operators, and their representatives, and other
3 interested parties an opportunity to present their views
4 on this proposed rule.

5 The format of this public hearing will be as
6 follows. Formal Rules of Evidence will not apply, and
7 this hearing will be conducted in an informal manner.

8 While this rule has been in place a little
9 less than two months, we have developed several
10 questions and answers that the field has passed up to
11 us, primarily the lawyers and Bill Crocco and Coal Mine
12 Safety and Health. That's still a work in progress with
13 local issues.

14 What we tried to do was develop a standard
15 that dealt with, what we felt like, was a grave danger;
16 and that was to get a person designated to manage a mine
17 emergency; be sure the person was properly equipped; and
18 that the miners always knew who this person was; and to
19 update the current evacuation plan that only deal with
20 firefighting, to include explosions and gas and water
21 inundation.

22 We are still dealing with questions that are
23 being brought up from the field, and that's kind of a
24 work in progress.

25 What we want to do at these hearings is try

1 to get all of the issues out on the table, and probably
2 the final rule will have to still address some of the
3 questions that remain.

4 Those of you who have signed up to speak
5 will make your presentations first. After all speakers
6 are finished, others can request to speak; and when the
7 last speaker is finished, we will conclude this public
8 hearing.

9 If you wish to present any written
10 statements or information today, please clearly identify
11 your material. When you give it to me, I will identify
12 the material by the title as submitted. You may also
13 submit comments following the meeting. Please submit
14 them to MSHA by February 28th, 2003, which is the close
15 of the post-hearing comment period.

16 Comments may be submitted to MSHA by
17 electronic mail at comments@MSHA.gov, or by fax at
18 202-693-9441, or by regular mail or hand delivery to
19 MSHA, Office of Standards, Regulations and Variances at
20 1100 Wilson Boulevard, Room 2352, Arlington, Virginia.

21 A verbatim transcript of this public hearing
22 will be available upon request. If you want a personal
23 copy of the meeting transcript, please make arrangements
24 with the court reporter, or you may view it on MSHA's
25 web site. It will be posted on the web site shortly

1 after this public meeting.

2 We will begin with the persons who have
3 requested to speak. When you come up to speak, please
4 clearly state your name, your organization, and spell
5 your name so we are sure to get it right for the record.

6 Our first presenter will be Larry Huestis
7 with UMWA?

8 THE SPEAKER: My name is Larry Huestis.
9 That's spelled H-u-e-s-t-i-s, and I represent the United
10 Mine Workers international union. I would like to read
11 some things I'd like to be inserted into the record
12 presented by my office and to the committee.

13 The UMWA is concerned that this action does
14 not adequately address the problems miners face should an
15 emergency situation arise. The emergency rule fails to
16 address improvements in addition to mine emergencies
17 response identified during the disaster investigation at
18 the Jim Walters Number 5 mine disaster, and additional
19 regulation is needed.

20 The union review of the emergency standard
21 and current language in the appropriate sections of 30
22 CFR found the following changes have been made.

23 Part 48.8. Annual refresher training of
24 miners, minimum courses of instruction, hours of
25 instruction, was amended to require a review of roof and

1 ground control plans, procedures for controlling and
2 maintaining ventilation, and the mine emergency and
3 evacuation plan as part of the miners retraining.

4 MSHA's commentary on the rule also indicates
5 the training of the new emergency evacuation procedure
6 under Part 48 does not have to be conducted by an
7 MSHA-approved instructor. That, however, conflicts with
8 Part 48.4 which specifies training is to be by approved
9 instructors.

10 Training on emergency evacuation procedures
11 are not specified for the task of hazard training. Part
12 75.1501, emergency evacuation, was added as a new
13 section. Those provisions expand on the provisions
14 contained in part 75.1600-1 which requires a responsible
15 person to respond to mine emergencies.

16 The new procedures or the new provisions
17 require responsive person to take charge during mine
18 emergencies. Mine emergencies were nearly -- newly
19 defined as a fire, explosion, gas or water inundation.
20 The new rule requires the responsible person to have
21 knowledge of the assigned location and expected
22 movements of the miners underground.

23 (The reporter interrupted and asked the
24 speaker to read his material more slowly.)

25 The new rule requires the responsible

1 person to have knowledge of the assigned location and
2 expected movement of miners underground, the operations
3 of the mine ventilation system, location of escapeway,
4 mine communications system, and any mine monitoring
5 system used in the mine emergency and firefighting
6 program of instruction.

7 The new rule requires the responsible person
8 to initiate a mine evacuation when mine emergency
9 presents an immediate danger to miners from fire,
10 explosion, gas or water inundation. Only properly
11 trained and equipped persons essential to the emergency
12 response can remain underground.

13 It required that the operator instruct all
14 miners of the emergency rule by December 19th, 2002,
15 along with informing miners of the identity of the
16 responsible person for the miners work shift; and if
17 changed, miners are to be informed of the identity
18 before the start of their work shift.

19 The investigation into the Jim Walters
20 Number 5 mine disaster found a number of flaws in the
21 firefighting and evacuation plan. And several
22 improvements were made to address those. While this new
23 section contains increased protections for miners, it,
24 however, fails to meet the needs as identified during
25 the Jim Walters Number 5 disaster investigation.

1 The standards do not address emergencies
2 during idle shifts, communications, atmospheric systems
3 in place during emergencies, defining what a properly
4 trained and equipped person is, the equipment such as
5 methane, carbon monoxide detectors on hand for emergency
6 responders, accurate tracking of miners designated of a
7 responsible person underground to manage the emergency,
8 training and situation simulation of the responsible
9 persons, expanded training for those responding and
10 available of emergency transportation.

11 The rule should not limit emergencies to
12 those identified. It should cover any emergency. MSHA
13 also has informed the industry that the responsible
14 person is not required to remain on the surface. That
15 could quickly turn an emergency response into a disaster
16 in the responsible person becomes a victim of the
17 emergency.

18 Part 75.1101-23 program of instructions,
19 location and use of firefighting equipment, location of
20 escapeways, exits and routes of travel. Evacuation
21 procedures, fire drills was redesignated as 75.1502,
22 mine emergency evacuation and firefighting programs of
23 instruction.

24 The changes in the revised section address
25 mine emergencies and mine emergency evacuation as

1 opposed to fires and fire drills.

2 The new rule calls for mine emergency
3 evacuation drills instead of fire drills. While
4 increased drills are needed for emergencies, fire drills
5 should still be required and beefed up. The rule does
6 not specify what is required in the emergency drills.
7 They should include improved hands-on firefighting, a
8 self-contained self-rescue training and simulated
9 emergency rescue evaluations.

10 Drills should also be conducted during
11 fully-staffed and partially-staffed shifts which would
12 include idle shifts. Drills must also involve the
13 responsible person.

14 Problems found with firefighting and
15 evacuation plan at the Jim Walters Number 5 mine likely
16 exist in plans in other mines, and improvements made in
17 the Jim Walters plan, and those recommended, should be
18 addressed in all plans to improve safety for miners.

19 The emergency rule should be changed to
20 require those. The emergency evacuation plan
21 improvements and those recommended at Jim Walters Number
22 5 are contained in pages 113 and 114 of the union's
23 report of the June -- Jim Walters Number 5 mine
24 disaster.

25 Other improvements affecting both mine

1 emergencies and preventions are found on pages 112
2 through 123. Those improvements should also be pursued
3 through the emergency rule making including
4 communication systems, page 114; mine-wide atmosphere
5 monitoring, page 117; protection of sectional electrical
6 equipment, page 119; improvements in the battery design,
7 page 119; quantity and quality in distribution of
8 methane, multiple gas detectors, page 121. The
9 temporary emergency rule fails to address those
10 problems.

11 Mr. Nichols, I believe you have a copy of
12 the mine workers report?

13 MR. NICHOLS: Yes, I do.

14 THE SPEAKER: I don't have it with me to
15 give it, but I think you have it.

16 MR. NICHOLS: Yes, we do.

17 THE SPEAKER: So those references to those
18 pages on those documents.

19 That's all I have to address the panel.

20 MR. NICHOLS: Larry, are you asking we make
21 that report part of the record?

22 THE SPEAKER: Yes.

23 MR. NICHOLS: Larry, we may have some
24 questions for you. Get back over here. He wants to
25 talk fast and get out of here.

1 Do any of you guys have questions for Larry?

2 MR. CROCCO: I have one question, Larry.

3 You may not know the answer. It sounded like you are
4 under the impression that this rule does not apply
5 during idle shifts or nonproducing shifts; is that
6 right?

7 THE SPEAKER: That's my understanding; and
8 also that, you know, the responsible individual, you
9 know, where his location and where he must be located, I
10 guess we have a difference, but, yes you are right; we
11 don't believe it covers idle and off shifts.

12 MR. CROCCO: Why do you say that?

13 THE SPEAKER: That's just from what I have
14 been told.

15 MR. CROCCO: Okay.

16 MR. NICHOLS: There is another issue
17 starting to surface here. It will be clearer as we work
18 through the rest of these hearings. The way this
19 rule-making process works is we issued the emergency
20 temporary standard that we thought would deal with the
21 most immediate concerns of a grave danger; that was
22 getting a person designated that was responsible for
23 evacuating the mine and managing -- help manage the
24 emergency, also getting the plans upgraded to include
25 these other issues, such as explosions, gas and water

1 inundation, and the Part 48 training.

2 The law requires that we use that for the
3 proposed rule. And as we work through the rule-making
4 process on the proposed rule, the law will not allow us
5 to deal with issues that weren't raised in that proposed
6 rule. It's the Administrative Procedure Act that
7 governs rule making.

8 If you haven't talked about something in
9 your proposed rule, you can't go -- you have to consider
10 the comments as some kind of natural outgrowth of the
11 issues you raised. Battery design, SESRs. We will have
12 to weigh this as we go on. I don't know if that's
13 beyond the scope of this rule making or... So we are
14 going to have to weigh that.

15 Do you want to say anything else, Jennifer,
16 about that.

17 MS. HONOR: I think I would piggyback on
18 that by saying that if we could try to streamline your
19 comments to focus on the major provisions of the rule.
20 That certainly isn't to discount any other concerns that
21 you may have. I just think there is probably a more
22 appropriate venue or a better manner to discuss any of
23 your other concerns.

24 But for this public hearing here, we should
25 try to focus on the provisions that we have here in this

1 document.

2 MR. NICHOLS: We will take all of the
3 comments. We are interested in all of the comments.

4 MS. HONOR: Right.

5 MR. NICHOLS: But I am just trying to let
6 you know what parameters we have to work with as far as
7 developing this final rule.

8 THE SPEAKER: And I'm sure my organization
9 will -- may have a difference of opinion there, and you
10 will probably be hearing from them as far as your
11 interpretation, their interpretation. So as long as
12 what I have got and given you today is on record.

13 MR. NICHOLS: Yeah.

14 THE SPEAKER: And I'm sure through the rest
15 of the hearings you will be hearing more. Some of the
16 actual day-to-day mine operations, we have some of our
17 local members who got in here just a little before -- or
18 a little after the hearing started. So maybe if there
19 is any questions, I'll talk to them about maybe
20 answering those questions or giving them somewhat of a
21 chance to answer some of your questions.

22 MR. NICHOLS: Yeah. They are all good
23 issues that we are very interested in. Thanks, Larry.

24 MS. HONOR: Thank you.

25 MR. NICHOLS: The next presenter will be

1 Linc Derick with 20-Mile Coal Company.

2 MR. DERICK: My name is R. Lincoln Derick,
3 L-i-n-c-o-l-n, Derick, D-e-r-i-c-k, with 20-Mile Coal
4 Company.

5 Our parent company, REG American Coal has
6 made formal comments on these regulations, so I want to
7 make some comments that relate more to our effort at
8 20-Mile Coal Company. And some are general comments.
9 With your statement, Mr. Nichols, I will clarify which
10 ones aren't in the scope of the regulations.

11 Two issues arose out of this. First, there
12 is commenting on the agreement or content of the
13 regulations; and the other, more important issue, is
14 they are regulations, and the compliance effort in
15 assuring whether we are currently in compliance with the
16 intent of the regulations, regardless of whether we
17 agree with some of them.

18 In reviewing them, we made comments ourself,
19 which I'll read some of them, but more importantly is
20 that in talking to the responsible persons and people
21 that become spell responsible persons, of what are their
22 opinions, after receiving the training in the new
23 regulations, what are their hesitations or concerns over
24 the regulations themselves, since they are the ones that
25 we all need to walk in the responsible person's shoes

1 when we are looking at these.

2 Prior to really discussing concerns of the
3 responsible persons and just looking at comments,
4 Section 75.1501, the responsible person shall have
5 current knowledge. Designating one person on each shift
6 to be in charge is feasible. However, determining a
7 level of knowledge and proficiency of each designated
8 person is going to be very difficult.

9 (The reporter asked the speaker to use the
10 microphone.)

11 THE SPEAKER: Is it to the level that
12 currently exists where a supervisor is deemed
13 responsible enough to amend a shift underground, knowing
14 that a vast support system is available through the
15 entire mine management system; or does that person have
16 such an extensive knowledge that they could manage an
17 emergency by themselves?

18 I might interject here from, a different
19 scope, as we all learn, it takes a village to raise a
20 kid. It takes everybody to manage a mine emergency, not
21 one person.

22 When a spell person is used to cover for an
23 absent normally assigned person, that person is
24 generally chosen for their level of responsibility, but
25 that person must rely on in-place systems and management

1 support. The responsible person is most likely going to
2 be underground at the time of a mine emergency, and many
3 of the duties that this regulation addresses may have to
4 be performed by other personnel.

5 B of that says shall initiate and conduct an
6 immediate mine evacuation when there is a mine
7 emergency. Does this mean that miners that are in by
8 the affected area evacuate, or the entire mine evacuate?
9 It should only apply to miners who are affected by the
10 imminent danger. The decision to evacuate the entire
11 mine must be made according to the emergency that is
12 arising.

13 In the occurrence of an unplanned fire
14 underground, is an imminent danger condition in that
15 immediate area, but may be resolved in a short time
16 frame and simple manner that does not risk other areas
17 of the mine.

18 Only properly trained and equipped persons
19 essential to mine emergency may remain underground. This
20 is confusing, as is this to be construed as mine rescue
21 personnel, since current requirements allow for
22 designated miners for the fire-fighting evacuation plan
23 may be used.

24 Requirements for a trained mine rescue team
25 member are the only defined persons in the current

1 regulations that define levels of training. Previous
2 MSHA regulations attempted to define proper mine rescue
3 training and member qualifications, helped cause a
4 drastic reduction in the number of teams that could meet
5 the new definition.

6 This regulation may provide that same
7 potential negative impact even though the intention is
8 to improve safety. We have a fully-trained fire brigade
9 that receives as much training, or more, as our mine
10 rescue teams.

11 However, there are situations where they
12 have not been allowed to go underground during a mine
13 fire after MSHA has issued a K order, unless they also
14 meet all of the requirements of a rescue mine team
15 member.

16 Secretary 75.1502 states that endangered
17 miners due to fire. The type of fire or gas or water
18 inundation must be defined. That could be considered to
19 be a mine-wide emergency. Seals could rupture that let
20 out low oxygen. You could have minor water breakage.
21 The intent of how severe the mine emergency is pretty
22 broad, to say gas or water inundation. That could be
23 gas or water inundation in a small area or could
24 endanger a large area of the mine.

25 Evacuation of all miners not required for a

1 mine emergency response. This seems to be sometimes
2 contradictory to having only trained personnel, which at
3 that point would insinuate only mine rescue team members
4 meet that qualification.

5 These next two are general comments. REG
6 20-mile has used the PED system for years, and several
7 years ago we were approached by NIOSH whether we would
8 be a test mine for a two-way PED system which would
9 allow communications back.

10 As we understand it, funding, somewhere in
11 the process of the NIOSH or MSHA, stopped that project,
12 and we would wish that to be reconsidered. The PED
13 system has been a major improvement of mine
14 communications, especially now if the responsible person
15 is to try to make communications back outside.

16 We have also been working with NIOSH for
17 many years about needed research on the safety of
18 fighting a major fire with large foam generator
19 firefighting effort. To date we have been frustrated
20 that there is -- that research has not moved forward
21 into fighting a fire, up dip, down dip; the gases that
22 would come on the offside of a fire, especially if a
23 foam generator fire effort was in place.

24 These are unknowns, and raise problems
25 during firefighting because they remain unknown. We

1 have been doing quite a bit of research on NIOSH on
2 steeply pitching firefighting, but it is with little
3 interest from most of the mine safety industry.

4 I would like to think that the responsible
5 person could come to a point where somebody could
6 quickly quiz me to see if I meet the intent of what's
7 required of a responsible person. In turn, I think
8 anybody at the mine could be quickly quizzed to see if
9 they meet that definition.

10 The new belt air regulation proposals are
11 stressing the qualifications and training of the
12 atmospheric monitoring attendant on the surface. I
13 would hope that if that regulation is approved, or even
14 in the current form, that there is a responsible person
15 outside to react to an AMS system and knows how to
16 evacuate the mine, that one call from the responsible
17 person to that attendant ordering a mine evacuation
18 would suffice that he fulfilled his duty as ordering a
19 mine evacuation.

20 The concern is the responsible person
21 shouldn't have to go back and make numerous calls to the
22 surface to find out if the evacuation is being carried
23 out. His duty may be to address the emergency.

24 The question would arise if people do
25 participate in mine emergency fire drills, does that

1 constitute that they are trained to address a mine
2 emergency and stay in their work area to combat a mine
3 fire or other emergency. Or is it ensuing or inferring
4 that additional training is needed.

5 We have been doing lots of hands-on training
6 over the years on 150-pound wheel units, fire
7 extinguishers, foam generators, but that we have always
8 believed is above the normal training of a mine fire
9 drill.

10 That question is going to come up that what
11 is the definition of "trained". I think the speaker
12 before talked to that, too. Is it hands on; is it going
13 to second guess the person who is handling a mine
14 emergency, and it's the first time they have used a fire
15 hose, a extinguisher, that we would like to see that
16 clarified as to does it still meet the definition of
17 trained.

18 One of the examples in the justification of
19 these rules was on an on-section emergency response. I
20 think we would have all thought that that construed
21 those people were trained by their fire drills.

22 We need to be careful to not underreact to
23 an emergency by not accepting a reasonable risk. Two
24 coal fire plants in northwest Colorado both have a rule
25 of one person with one extinguisher for a fire is the

1 maximum effort that can be given to combat an emergency.
2 If that person fails, then a total power plant
3 evacuation occurs, and a local volunteer fire department
4 is called in to take over.

5 One of these power plants is the largest in
6 the state of Colorado. What would happen to personnel
7 trapped by the fire if only one extinguisher is
8 exhausted.

9 This is beginning to sound familiar with
10 these new regulations. Who do we call in the mining
11 industry?

12 The concern of the regulations
13 concentrating on evacuations are starting to hit at the
14 most reasonable course of action, if you are the
15 responsible person, is to evacuate and run. I believe
16 we need to ask this; at what level may one employee put
17 his or her life at risk to save a fellow employee,
18 possibly by performing a task or an effort that he or
19 she is not adequately trained at.

20 I think we need to address that situation.
21 A lot of people have put their lives on the line for
22 fellow miners, and sometimes it is not strictly done by
23 the book. When -- we need to really think of the
24 industry we are in.

25 We must address these regulations first by

1 putting ourselves in the shoes of the responsible
2 person. A large mine is unfortunate to experience a
3 major disaster. Is it reasonable that MSHA does not
4 find any fault in some aspect of that responsible
5 person? The responsible persons are feeling that this
6 is a no-win situation other than to evacuate the mine.

7 I really want to -- we have offered today to
8 the State of Colorado, that we would like to be a
9 training facility for developing material for what is a
10 competent and responsible person. It has been pretty
11 easy in these regulations to list what that responsible
12 person should know, but I don't know of any one aspect
13 of those that any one person meets that total
14 qualification.

15 When we are into mine emergencies, best
16 effort is sometimes the best we are going to get.

17 I appreciate the opportunity to speak. As I
18 say, our company has made more formal comments on this
19 subject.

20 Thank you.

21 MR. NICHOLS: Anything you want to leave
22 with us?

23 THE SPEAKER: Not really.

24 MR. NICHOLS: Any questions?

25 MR. CROCCO: You Talked a little bit about

1 the credit system. At 20-Mile is every miner equipped
2 with a PED receiver, or just certain of the personnel.

3 THE SPEAKER: We are purchasing so many a
4 month, but to date every fire boss, every belt man, EMT,
5 any supervisor, anybody that works in remote areas has
6 one. But it doesn't make sense at this point in time
7 that a continuous miner crew, everybody on there have
8 one.

9 The system is used extensively. The nice
10 thing about the PED system is it is not just an
11 emergency device that we see in too many disasters.
12 Sometimes units that aren't used on a regular basis
13 fail. It is a regular communication tool. So you are
14 testing it dozens of times every shift.

15 MR. CROCCO: Can you talk a little bit about
16 the cost and the effectiveness of that system in your
17 experience.

18 THE SPEAKER: I'm not sure of the cost. We
19 have been able to maintain it with an atmospheric
20 monitor attendant, with training. We have been able to
21 self-maintain the units.

22 I don't believe we would ever have any
23 negative comment about whether it was worth the
24 installation. It has been extremely reliable. The
25 responsible person that I was working with last weekend

1 on this, concerns was it is not going to work if I'm
2 walking the tailgate out; if I'm back in some areas of
3 the bleeder.

4 We have expanded different antennas of it,
5 but you can't get 100 percent mine coverage. And his
6 concern is what do I do now when I want to walk the
7 tailgate.

8 My comment is, then you need to then make
9 other responsible persons or the attendant outside aware
10 that you are going to be out of communications for a
11 certain length of time.

12 But if we could just look at the impact,
13 first at what safety is this going to give all miners, I
14 think that's the number one thing to look at. But then
15 the other is what is this doing to that responsible
16 person. Running a mine 7 days a week, 365 days a year,
17 you are not going to have every shift the person you
18 intended to have on that shift.

19 When you get into this, our mine runs an
20 extremely complicated mine monitoring system coupled
21 with mine process controls, our on-site gas
22 chromatograph; and to think that what we feel is a mine
23 management oversight of a mine emergency, to think we
24 can bring every person up to full knowledge of our gas
25 chromatograph program, alternative escapeways out of the

1 mine, of which we have many that are not designated --
2 that's what I want to start working on, is what level
3 can I give responsible persons in training, to where if
4 they understand what we give, then a failure outside of
5 that area is a failure of the training system, not a
6 failure of that person.

7 Because these are the heart of our mine
8 emergency people, is this responsible person.

9 MR. CROCCO: The secondary communication
10 system such as the PED, is this something you would
11 recommend for every mine or something that is needed?

12 THE SPEAKER: Other mines may have other
13 systems which may be more effective.

14 MR. CROCCO: But just as a secondary
15 communication system, is that something that's needed,
16 in your opinion?

17 THE SPEAKER: I would say it's advisable. I
18 wouldn't say it's needed. That could get down to a
19 small mine having an exhaustive system. I think the
20 complexity of the mine probably drives that.

21 But like I say, we were pretty excited over
22 potentially being a NIOSH research center with the
23 two-way PED. We are currently creating with NIOSH on
24 emergency training and firefighting development areas,
25 and these have been created in effect for over six years

1 in both subjects.

2 MR. NICHOLS: When have you last heard from
3 NIOSH?

4 THE SPEAKER: On the two-way PED?

5 MR. NICHOLS: Yes.

6 THE SPEAKER: It has probably been over a
7 year. I'm not sure -- whether that was a technology gap
8 or an expenditure gap.

9 MR. SEXAUER: I have a little bit of a cold
10 so bear with me. We have heard a lot of comments on the
11 responsible person and whether that person should be on
12 the surface or underground. What we've heard at the
13 other hearing was testimony that the responsible person
14 should be on the surface, but have enough familiarity
15 and be underground frequently enough so that they know
16 the conditions of the mine underground and are current.

17 What's your view on that subject?

18 THE SPEAKER: The responsible person is
19 going to have to be the person that is most in charge of
20 the workforce, and that is -- that could get to where a
21 person with less qualifications then be deemed the
22 responsible person. A responsible atmospheric
23 monitoring system attendant may be completely capable of
24 doing, implementing and following the mine emergency
25 plans, but may not have a thorough understanding of the

1 underground.

2 If you are going to say one person is
3 responsible for what the regulations say, that's going
4 to have to be a person that has no barriers of where he
5 is at, he or she. It is either underground doing their
6 duties, which is where they would most likely be where
7 they are at; or if they are outside, they could still
8 fulfill that, just as the regulations are proposed.

9 Now we have already received local
10 inspectors comments that we could be forced to have a
11 second person, a second responsible person, one outside
12 and one underground. That is enforcing past the intent
13 of the temporary standard or the proposed regulations.

14 However, having a responsible person on the
15 surface to manage an atmospheric monitoring system
16 should be able to meet a portion of what is needed
17 during a mine emergency. They are not capable to direct
18 the activity of addressing the mine emergency, and
19 that's going to fall to the responsible person. If the
20 responsible person is outside, the more likely place he
21 is going to go is immediately to the emergency, is to go
22 underground to the emergency, hoping that the evacuation
23 is taking place per his order.

24 There is a lot of difference the way you
25 read those now. Some people are saying, are they

1 obligated to assure the evacuation has adequately been
2 done, when they may be at the scene of the emergency.

3 We evacuate our mine probably at least once
4 a quarter for either an unknown CO event, power outage
5 on fans, so we have a pretty good idea of the
6 effectiveness of when we say evacuate the mine. It is
7 not only during real emergencies that that occurs. It's
8 kind of like the PED system. If you use it everyday,
9 you know it works when you need it for an emergency.

10 If you regularly evacuate your mine for
11 numerous reasons, you have a pretty good sense, and our
12 responsible persons have enough confidence that if they
13 give the order to evacuate, it will happen.

14 Will it be perfect? Are they responsible if
15 it's not perfect? They want the assurance that if they
16 make the decision to evacuate, that they met their
17 requirement. Now granted if they ran into people who
18 weren't evacuated underground, then they would have
19 additional responsibilities. But in a large mine you
20 can't know everything that is occurring everywhere.

21 My confidence that an adequate evacuation is
22 ongoing is not going to wait until there is an
23 emergency. It's what do we do when there is one that we
24 should evacuate. We issued the evacuation order.

25 And what does happen is our atmospheric

1 monitor attendants do not have to have any approval to
2 call an evacuation. If the communications fail during a
3 high CO, they have the capability of shutting the entire
4 belt system down right from their location, and have
5 done so maybe every other couple of years we have a
6 situation where communications is lost, and we have
7 unaccounted CO, and we have evacuated the mine.

8 MR. SEXAUER: Do you feel comfortable that
9 you can identify a responsible person at your mine?

10 THE SPEAKER: Yes. Yes, we do that and
11 their name is posted at each shift.

12 MR. SEXAUER: We heard comments that posting
13 perhaps is not adequate notice. What's your thought on
14 that?

15 THE SPEAKER: I mean our training -- we
16 have informed everybody the duties of the responsible
17 person. We have also more concentrated on their
18 responsibility to assure they looked to see who that
19 responsible person is, that they carry some
20 responsibilities themselves in this, in mines that have
21 six, eight shift changes a day, the responsible person
22 who is coming on next.

23 Even short of -- we have been told
24 inspectors will start quizzing people underground in two
25 ways. They will walk up to a miner underground and say

1 who is the responsible person, and they are also saying
2 they will see somebody in the remote area of the mine
3 and get on the mine phone and call the surface and say
4 have the responsible person call me and tell me where
5 this person is at at this time.

6 I don't believe these are really the intent
7 of these regulations, but when you have that going
8 through your workforce, you can imagine the nervousness
9 of the responsible persons at this point in time,
10 because they don't know what they are going to get hit
11 with.

12 And these are, quote, responsible persons.

13 I have to agree that we should not have
14 anybody underground that you don't have somebody that is
15 responsible enough to manage those people.

16 MR. CROCCO: Has that been a particular
17 problem, trying to keep track of people underground?

18 THE SPEAKER: Certain, people, yes. There
19 are shop people that are going underground to do their
20 weekly permissibility on diesel equipment and outlie
21 equipment and knowing their general whereabouts and what
22 they are intended to do that shift.

23 We have very formal shift meetings, but when
24 you look at a large mine -- I don't think the
25 regulations really specify you know the exact

1 whereabouts of all people. It is the intended locations
2 of people.

3 It's harder for people that are in the
4 management structure, that are above the responsible
5 person, to make sure they understand they have an
6 obligation to let a responsible person, that has got
7 their name on the board, know where they are going.

8 Because that's one thing that is probably a
9 little bit different is higher levels of management that
10 are used to going anywhere in the mine to do their job.

11 MR. CROCCO: Let me ask you one more
12 question. We had some comment earlier this week about
13 transportation being unavailable on working sections.
14 You know, shift change-out, the man-trip would pick up
15 the next crew or could leave for some purpose during the
16 shift, leaving those people without transportation.

17 Do you have any opinion on whether a
18 man-trip transportation ought to be maintained at
19 working sections whenever miners are up there?

20 THE SPEAKER: We don't have an absolute that
21 it won't occur, but our recommendations are there should
22 always be emergency transportation, even to -- we train
23 our people that if they have a CO warning that allows
24 investigation -- I mean it would allow the same as a fan
25 outage; a crew has to cease production, assemble at the

1 loading point to prepare for evacuation.

2 But the law from that allows the
3 investigation to go on without evacuation. Our
4 recommendation there is that their man-trip never leaves
5 to do; that if there is only one man-trip, the whole
6 crew goes to investigate the cause of it.

7 Technically the regulations don't require
8 that. This is just looking out for your miners in these
9 situations. Having it be a mandatory -- I guess I
10 wouldn't really have a negative opinion of saying this
11 person should have transportation out of the mine. You
12 don't want to go back in to get them if you don't have
13 to.

14 MR. SEXAUER: Are you aware of any way of
15 distinguishing underground phone traffic from outside
16 the mine or other locations during an emergency where
17 the responsible person may be located on the surface?

18 THE SPEAKER: You mean they are aware where
19 the call is coming from?

20 MR. SEXAUER: So they can screen calls and
21 deal with calls.

22 THE SPEAKER: I don't believe we have that
23 capability. I believe probably a stern order of keep
24 this to emergency communication only -- I don't think
25 you would have to go any further than that to get normal

1 chatter stopped, the same way we have a rule on a
2 man-trip that it has flashing lights; you always yield
3 to it, because you don't know what somebody is telling
4 you. There is an emergency.

5 We don't have like an identification system.
6 Or if you did that, you may be screening out -- you
7 would have to be able to screen it -- if you screen the
8 calls, then there may be another emergency or person
9 trying to help on that emergency, and they are screened
10 away from it.

11 So I think the proper thing there would be
12 people be trained, if you know there is an emergency of
13 any injury, you just shut up.

14 MR. NICHOLS: The way that came up was in a
15 discussion about what happened with trying to manage
16 that emergency at Jim Walters Number 5, that you had
17 outside calls coming in, and people couldn't deal with
18 communications on the mine side for interested outsiders
19 calling in. That was kind of the root of that
20 discussion.

21 THE SPEAKER: So you are talking about
22 interference with calls other than from the underground?

23 MR. NICHOLS: Yeah.

24 THE SPEAKER: To me, that would be simple to
25 handle. You don't answer the outside calls. We have

1 special lines that people don't know the number, so they
2 can't tie our system up for emergency reasons.

3 MR. NICHOLS: Anything else?

4 Thanks.

5 Larry, I forgot to ask you if you wanted to
6 leave your presentation with us.

7 THE SPEAKER: I will get you a copy.

8 MR. NICHOLS: The next presenter will be
9 Tain Curtis with UMWA.

10 THE SPEAKER: Tain Curtis, T-a-i-n,
11 C-u-r-t-i-s. I am the Safety Committee Chairman of UMWA
12 Local 1769 at the Deer Creek Mine in Huntington, Utah.

13 I have 22 years varied experience in
14 underground coal mining. I am also a volunteer fireman
15 and EMT in our county ambulance service. I am a member
16 of our mine rescue team and captain of our second team,
17 and I represent 250 members of our local.

18 I appreciate the opportunity to voice our
19 comments at this time.

20 We grieve with the families of the miners
21 who have lost their lives that has brought the need for
22 this regulation. I agree with MSHA that there is a
23 need.

24 The first I would like to address is about
25 the responsible person. As a volunteer fireman, I have

1 been trained to follow certain guidelines during an
2 emergency. Emergency services have an incident
3 commander for emergencies that happen in our
4 communities.

5 There are several things we can learn from
6 following these guidelines while at the same time be
7 flexible for each specific mine site application. These
8 guidelines are readily available from any emergency
9 services, a generally generic outline that leaves room
10 for the needs of the mine to fill in.

11 At the same time, if something like this is
12 adopted by MSHA, then each plan can be approved on an
13 individual basis by just following the guidelines set
14 forth.

15 The second point I would like to address is
16 the areas of the standards that are vague about training
17 of miners.

18 What exactly does MSHA expect the operator
19 to do to train miners? Also the possibility of
20 accepting outside agencies and the training they do. An
21 example is the training firefighters do to be a
22 firefighter 1 qualified. This training is extensive and
23 have several applications that cross over to mining.

24 It also gives hand on experience in
25 firefighting in a wide variety of situations.

1 Also, there is a provision for the use of
2 PEDs to contact miners who work outlie and travel
3 several areas of the mine during each shift, such as
4 roving line mechanics and fire bosses. This needs
5 looked into; and if feasible, implemented in plans for
6 mines that have a PED system. We have a PED system, and
7 all people who work outlie and anybody who needs to be
8 contacted in an emergency have a PED with them.

9 The third point is the thought process that
10 needs to happen during a disaster. In the first moments
11 of a disaster, it is critical that important decisions
12 be made. Today, thankfully, there are few disasters
13 that happen, but the experience one gains from these
14 real-life tragedies is priceless.

15 So how do we get experience to miners on
16 using a thought process so critical in evaluating and
17 making decisions. MSHA has a way to evaluate this
18 all-important process, but not all mines participate in
19 these training exercises. They are mine rescue
20 contests.

21 This gives MSHA an opportunity to evaluate a
22 mine facility to respond to emergencies. I don't have a
23 plan or an incentive to give to other mines to see the
24 invaluable experience they can gain in mine rescue
25 contests, but would encourage MSHA to look into this,

1 because I know that there is a thought process that
2 needs to be gone through to make critical decisions in a
3 time of disaster when it is important to react in ways
4 that, one, saves lives; two, minimizes the disaster;
5 and, three, keep people working in a safe environment
6 and let coal miners do what they do best, mine coal.

7 Again, I appreciate the opportunity of
8 voicing our comments at this time and the time and
9 effort you have put into it.

10 MR. NICHOLS: Thanks, Tain. Do you want to
11 leave us anything?

12 THE SPEAKER: No. I don't think you could
13 understand my handwriting.

14 MR. SEXAUER: I have a question. You talk
15 about the incident commander and certain flexibility in
16 certain guidelines. I would be interested in seeing
17 what those guidelines would be. Is it possible to get a
18 copy of the guidelines, and have you submit them for the
19 report?

20 THE SPEAKER: I could. I could get what our
21 department has. I have been to extensive training
22 through firefighter academies that have these
23 guidelines. Each individual one is maybe a little bit
24 different, but they all follow -- the basic guideline is
25 your incident commander, and when somebody more

1 qualified comes onto the scene, he becomes the incident
2 commander.

3 The same could be used in a coal mine
4 application. The responsible person on the surface
5 would understand all of the things he needs to do to
6 evacuate the coal mine, but at the same time somebody
7 with more expertise may come in to the command center
8 and take over the operation from him.

9 These guidelines are general and generic,
10 but I think the application they could be given for coal
11 mine application is great.

12 MR. SEXAUER: I would like to see those.

13 THE SPEAKER: I will try to get a copy and
14 e-mail them or something. I guess you guys are at MSHA.

15 MR. SEXAUER: I will get the address for you
16 right now.

17 MR. NICHOLS: Anything else?

18 That's all of the people we have signed up
19 on the sign-in sheet to make comments. If anybody else
20 wants -- you don't have to be signed in to come up and
21 make comments.

22 Anybody else?

23 We are going to stay around here for a while
24 this morning in case people are traveling in that have
25 not made it yet.

1 Let me tell you what's going to happen with
2 the rule making process that we bring this to closure
3 with. When we started the process back in December, we
4 knew a couple things, that 14 miners had died in coal
5 mines, not as a result of a first explosion, but as the
6 result of a second explosion. And that those miners up
7 at Q Creek had experienced a really close call, 18
8 miners.

9 The idea was to cause people to have
10 somebody in charge to evacuate a mine, not leave people
11 underground to get killed or injured by subsequent
12 explosions, mine explosions. We knew that the current
13 evacuation plan only dealt with firefighting, and we
14 wanted to upgrade those to include explosions and gas
15 and water inundation.

16 We wanted people to know who the designated
17 responsible person was. We wanted people dealing with
18 mine emergencies to have the proper equipment. We had
19 gotten word that people had gone into areas without even
20 a methane detector.

21 So we wanted those things addressed. We
22 felt like the emergency temporary standard was a good
23 start for that. But there are a lot of issues. I know
24 we have heard a lot today. We heard a lot Tuesday. We
25 will hear a lot more next Tuesday and Thursday. And we

1 have gotten written comments, and we will continue to
2 get those.

3 Our goal is to develop the best practical
4 mine emergency standard that we can develop. I mean
5 it's got to be something that's practical and
6 understood, and that's our goal. And what we want to do
7 is take all of the comments we get from the public and
8 try to develop such a rule.

9 So we are going to take a break here.
10 Anybody else have anything they want to say?

11 We will take a break, and we will come back
12 in here about 10:30 in case other people show up.
13 But we appreciate all of you folks coming in, and we
14 appreciate your comments. So we will move on from here.

15 By law, we have to have this standard
16 finalized by September. Anytime you issue an emergency
17 temporary standard, the law requires that you finalize
18 the regulation within nine months. That would take us
19 to September.

20 So thanks.

21 (The proceeding was in recess until 10:30
22 a.m.)

23 MR. NICHOLS: Let's go ahead and have a seat
24 and get started back.

25 We have a couple a takers while we were on

1 break. Mark Byers. Mark Byers with UMWA.

2 THE SPEAKER: That's B-y-e-r-s.

3 I just have a couple comments on -- that
4 Linc Derick brought up. That was the man-trip section.
5 I really feel that it's important to have them in there
6 all of the time because the workers a lot of times are
7 in by where a potential problem might arise. And
8 although there are other alternate escapeways, the
9 fastest way out is with a man trip.

10 That's the only thing I wanted to comment
11 on.

12 MR. NICHOLS: Anybody have any questions?

13 Okay, Mark. Thanks.

14 We have up next Greg Mele with Blue Mountain
15 Energy.

16 THE SPEAKER: My name is Gregory P. Mele,
17 M-e-l-e. I am the safety manager for Blue Mountain
18 Energy for Eldorado coal mine. I didn't really come
19 prepared to comment. But as you spoke earlier, Mark,
20 you touched a little bit on impressions of how the
21 standard is actually working now. Link made some
22 comment to that.

23 We had the inspector -- I guess it was the
24 first time they came out, we seen them this year, and
25 wanted to go to a pay phone and call the responsible

1 person, and did that. The responsible person answered
2 the phone within nine minutes. To him that was
3 satisfactory.

4 I believe the standard implies immediately,
5 be there immediately to start a mine evacuation. What
6 is immediately? The immediate tenor of this standard
7 is, when we are talking about responsible person, is to
8 have your most knowledgeable person on that shift that
9 really takes charge of that shift is going to be the
10 responsible person.

11 At first we decided we would designate that
12 by title. We were instructed by that inspector that
13 that was not sufficient, that we would have to do that
14 by name. I don't really believe that, so that's a
15 situation that needs to be addressed.

16 About three times during that same shift I
17 went to a page phone and called the responsible person.
18 All three times the responsible person on shift did
19 answer the phone within that ten-minute period. If he
20 didn't, I'm sure we probably would have received a
21 citation.

22 Now I had a discussion with the inspector,
23 and I said who determines ten minutes. He said right
24 now I believe that's reasonable. I said how about the
25 guy that's behind you and says he better pick that phone

1 up right now and answer that.

2 So we are going to get into a consistency
3 problem with the time frame.

4 Right now we have got a responsible -- our
5 shift foremen are our designated responsible person. We
6 do have an atmospheric monitoring system. We have a
7 personnel locator in our operation center 20 hours a
8 day, and then our warehouseman has that for four hours a
9 day.

10 The intent is that shift foreman is going to
11 be responsible because he is acting on that shift. Our
12 operations person, past stoppages we have had -- in our
13 area right now we have had some bad frost, so we have
14 had to evacuate several times due to having to shut the
15 fan down.

16 That person in our operation center calls
17 that evacuation. It's not uncommon, and they will
18 address that.

19 I guess we need to -- if we are going --
20 first of all, are we going to designate by title, which
21 gives us that right; or are we going to have to name
22 that person? That's an important issue that has to be
23 addressed.

24 Then I guess I'm not sure where the
25 inspector is, at this point, getting their guidance and

1 direction, because there are questions and answers that
2 tell you pretty much a few of the items that have to be
3 addressed.

4 And I'm going against that concept right
5 now. So the way it's being dealt with right now, our
6 shift foreman, our responsible person, Greg, what do you
7 want us to do when MSHA is on site; do we have to sit by
8 this phone? Absolutely not. You go about your daily
9 routine.

10 What if I have to go in a bleeder? Then you
11 let someone know where you are going, and how long it
12 might be. At that point they want to redesignate
13 somebody to fill that vacancy.

14 That's another question that has to be
15 answered. If he is going to be gone very long, do you
16 have to let somebody else know, Mr. Section person, you
17 are now the responsible person? How much time is
18 allocated to get ahold of everybody underground now and
19 say, hey, the responsible person is the section foreman?

20 I don't think that's the intent of that
21 standard either.

22 So I guess there needs to be some more
23 thought process that goes into this that can really be
24 identified who is going to be in charge and how long can
25 they be away from the phone.

1 We currently don't have a PED system. We
2 have looked at PEDs, and we have looked at some other
3 alternative devices. We are a small operation right
4 now, and don't know that we will purchase one, but it's
5 something that we have looked at over the last couple of
6 years.

7 I just wanted to give you our thoughts of
8 how it's being dealt with right now, and that's all of
9 the comments I have.

10 MR. NICHOLS: Bill, while we do these Qs and
11 As, we send them to all of the district, right?

12 MR. CROCCO: Yes, we have. I think what we
13 have said on that, Greg, is like in your case, if you
14 want to say the responsible person is the mine foreman
15 for your plan or whatever, that's just fine, as long as
16 the miners know who that person is for their shift.

17 You can say it's the mine foreman, but the
18 miners ought to know who the mine foreman is for their
19 shift. That's the way we've answered that in the past.

20 THE SPEAKER: We don't have a problem with
21 that. That's the way we do it. But the question and
22 answer says by title or name. We are small -- we have
23 three shift foreman. All the people know who those
24 shift foreman are.

25 If those people happen to be off, we would

1 redesignate someone and put them on the board.

2 MR. CROCCO: That would be fine.

3 THE SPEAKER: Another impression we had is
4 your shift foreman shouldn't be your responsible person.

5 MR. CROCCO: Let me ask you about that. You
6 use the shift foreman for the responsible person, and
7 you have heard the comments that that person should be
8 required to remain on the surface. Could you see that
9 damaging the overall safety of your operation if those
10 people could not go in the mine, but had to remain on
11 the surface to perform this function; or do you think
12 that there is a benefit if they do go in the mine,
13 travel in the mine, see what conditions are?

14 Do you have any thoughts on that?

15 THE SPEAKER: My personal opinion is that
16 the shift foreman cannot be outside. His job is to run
17 the shift. That's his primary obligation. There is
18 some fire bossing that he is required to do. Our
19 responsible person could not remain on the surface.

20 I really don't think he should remain on the
21 surface. He is your key man at your operation. If
22 something happens, he is capable of making the call to
23 start the evacuation, and our people are competent
24 enough in our operation center to start the evacuation;
25 I am comfortable that would be fine.

1 He is going to go to the heart of the
2 emergency. I think that will be the case in most of the
3 coal mines. That responsible person is going to be the
4 key person on that shift, and he is going to respond to
5 that emergency. So I don't think he could be a person
6 who sits out by a telephone, no.

7 MR. CROCCO: I think what Greg is saying,
8 too, in some cases our enforcement action might not be
9 matching up with the Qs and As.

10 THE SPEAKER: Absolutely. We have had some
11 casual conversations about it. It's just been -- the
12 timing has been right that he has been within that
13 ten-minute time frame. If not, I'm sure we might be
14 having a few different problems with it. But it really
15 needs to be spelled out how it's going to be handled.

16 MR. CROCCO: I don't think we ever talked
17 about a particular time frame. I believe in the
18 questions and answers it says he can go underground
19 provided he has ready access to communications, such as
20 there are phones along the travelway, along the belt, if
21 he were traveling throughout the mine. He might be in a
22 vehicle. Of course there is telephones there. So he
23 would have access to communications, and that's what was
24 intended.

25 But in the rule -- or the questions and

1 answers, there is not a specific number of minutes
2 allowed.

3 THE SPEAKER: And we understand that.
4 That's what I am saying; is this just his judgment that
5 that's reasonable? When it says should be able to
6 immediately start an evacuation, what does "immediately"
7 mean?

8 So in your scenario you are saying the rules
9 says now, what is immediately? Because from point A to
10 point B is going to take some time, you know, before he
11 answers a page or he has to make a page.

12 MR. CROCCO: I think once he gets the
13 information, has enough information to assess the
14 situation and determine in his mind that evacuation is
15 necessary, he initiates it then immediately.

16 In other words, he doesn't call more senior
17 people off site at home to get their approval and that
18 sort of thing. This person is empowered, based on the
19 conditions he sees, to initiate evacuation if he
20 determines that an imminent danger exists endangering
21 the mine. That's what's intended.

22 THE SPEAKER: I agree with the intent of
23 that. But it says he is going to be responsible. When
24 off-site people arrive, you have a vast amount of
25 knowledge out there within your operations, that are

1 home sometimes during the night when that phone call is
2 made.

3 When we get to the site, inevitably we are
4 going to take over for that responsible person, higher
5 management, which is, in my opinion, fine. That's
6 probably the way it's going to be dealt with.

7 But I guess the problem with this
8 "immediately" is it's being taken right now that that
9 immediately is that he will be by the phone to wait for
10 that phone message that, hey, we have got a problem, you
11 need to start an evacuation.

12 As you are saying right now, I don't believe
13 that's the intent of the standard. I guess that's one
14 of the big questions that needs to be dealt with and
15 answered before the final rule comes out.

16 MR. CROCCO: Well, we can do something about
17 that.

18 MR. NICHOLS: Do you have an idea of what
19 your definition of immediate would be?

20 THE SPEAKER: To me immediate is right away,
21 but I just don't think that's going to happen immediate.
22 I mean he is not going to be notified immediate. They
23 are by the phone systems on and off all day. They
24 answer pages all day long at our mine, and I know they
25 do at a lot of other mines. He is going to be able to

1 notified.

2 So how much time is going to be allowed to
3 notify that guy? There is no telling if he goes to walk
4 a bleeder, then that's going to take him 30 minutes.

5 MR. CROCCO: If he is going to go walk a
6 bleeder and be out of touch for an extended period, then
7 you have to use an alternate responsible person, at
8 least for that period.

9 THE SPEAKER: That's fine. Then he makes a
10 decision -- they find a problem in the bleeder; he has
11 to look at it. Now we notify operations; call a
12 section; John Doe is now the responsible person.

13 Now how do you go about notifying all of
14 your outlie people that you have a new responsible
15 person that may -- that may not get to them before the
16 other responsible person is back in charge?

17 MR. CROCCO: I think you make your best
18 attempt, using the communication systems you have
19 available, to notify the people of the situation.

20 THE SPEAKER: I think that's done now. It
21 gets down to when you get inspectors on site, how is
22 that going to be enforced? That opens another door for
23 paper work.

24 MR. CROCCO: The intent of the rule was not
25 to set up a Gestapo situation to enforce rules. Some of

1 these little details you bring out, we anticipated we
2 would have to iron out before the final rule comes out,
3 and we will try and do that, and we will do the best we
4 can to make it work in the interim.

5 But you have to realize we need your
6 comments and suggestions so we can work these things out
7 before the final rule is published.

8 THE SPEAKER: That's why I decided to make
9 comments just on what's happening in the interim now.
10 Those are the little things that could get you into
11 trouble.

12 MR. NICHOLS: What we might have to do is
13 what we have done with a lot of other regs, is have what
14 you can deal with in the regulation, but then keep
15 expanding those Qs and As as clarification. We have
16 done it in ventilation. We have done it with haz com.
17 We have done it with other rules.

18 THE SPEAKER: If it is better for our
19 miners, I think all companies would like to do that. I
20 don't think there is an issue with that.

21 MR. NICHOLS: That's what we are trying to
22 say with these hearings. Less than two months ago we
23 knew some things, that people were getting killed by
24 second explosions.

25 We had assumed that although the evacuation

1 plan talked about firefighting; that if you had an
2 explosion, people would evacuate the mine. That's not
3 necessarily the case.

4 So we knew those things needed to be dealt
5 with. But all of the definitions on what's "immediate"
6 and some of the other issues that we have heard raised,
7 it's like Bill said, we are just going to have to work
8 through this, through the rule making, and also any
9 compliance guide or assistance that we can do.

10 Okay, Greg. Thanks.

11 Anybody else? Come on up.

12 THE SPEAKER: I'm Vince Conkle, C-o-n-k-l-e,
13 Local Union President of Blue Mountain Energy Mining.

14 The discussion seems to be whether this
15 responsible person is inside or outside. To me, the
16 responsible person should be an underground person, but
17 the instant he is notified of a situation, should go to
18 the outside, mainly because all of the resources -- you
19 have all of your resources; you have your firefighting
20 equipment; you have MSHA; you can contact the people you
21 need from the outside, where you can't, in our mine,
22 from the underground.

23 I work in the operations, so to speak. I am
24 the warehouse person who takes over conspec on
25 graveyard. I'm poorly trained. I know the basics of

1 this operation, but I would need more training -- to
2 bring up a scenario, if there is a problem, I would need
3 more training, and then I could call the responsible
4 person that you have a problem that he might not know
5 of, and at that time I believe he should go to the
6 outside and direct his operations from there.

7 I mean this is the situation at our mine.

8 The regular operations people, even during
9 the day shift and swing shift, I don't believe are
10 qualified to make calls underground either. But they
11 would probably be qualified to notify the responsible
12 person you have a problem; and then, I believe, like I
13 say, there again, the responsible person should come
14 outside and start making calls from there.

15 MR. NICHOLS: Does anyone want to react to
16 that? Okay then. Thanks.

17 Anybody else? Come on up.

18 THE SPEAKER: Kevin Tuttle, T-u-t-t-l-e.
19 Just a couple of concerns we had. One is the regulation
20 states --

21 (The reporter asked the speaker to speak
22 up.)

23 -- people would be properly equipped or
24 trained. That's a pretty vague statement.

25 If you are going to want us to train or

1 equip our people, you need to let us know what you are
2 talking about. There are four different scenarios to
3 train and equip for. It is a vague statement. It needs
4 to be clarified somewhat so we can do proper training to
5 address what you want on that.

6 Second would be imminent danger. Our
7 interpretation of imminent danger or imminent situation
8 falls back on the definition of imminent danger, which
9 is trying to address something before it actually
10 happens.

11 If we have a situation that's already
12 happened, then you make a determination whether it's of
13 an imminent nature.

14 So I think you need to take a look at what
15 are you referring to when you talk about an imminent
16 nature.

17 Also, you talk about responsible person; and
18 in my mind, a responsible person is going to be one
19 that's going to react initially. I can guarantee you in
20 almost every situation, this person is going to be
21 relieved, or the decisions made will be by somebody
22 different than him shortly after that situation arises.

23 You will have mine management who have
24 greater knowledge probably. The responsible person is
25 probably the one who should take immediate action to

1 start that process, but that process will eventually be
2 taken over by somebody senior that will come to the
3 operation.

4 So there should be some allowances for that,
5 because that is going to happen.

6 MR. CROCCO: Do you think that's not allowed
7 by the rules right now?

8 THE SPEAKER: If I have to clear of
9 everything through my responsible person, notify
10 everybody underground that I have changed my responsible
11 person, which to me is almost impossible to contact
12 everybody underground. I have an emergency evacuation
13 going on. I have got somebody else coming up and taking
14 responsibility, I'm not going to contact people
15 underground I have made a change. I have people in
16 motion.

17 I can satisfy the law by saying, okay, this
18 is still my responsible person and work everything I
19 have through him, this is who I'm going to contact, but
20 that person is not going to be making decisions
21 pertaining to that mine.

22 That's all I have.

23 MR. NICHOLS: Could you say for the record
24 your organization?

25 THE SPEAKER: Energy West Mining Company. I

1 am the manager of safety, Kevin Tuttle, T-u-t-t-l-e.

2 MR. CROCCO: On that properly trained and
3 equipped, if you look at the preamble, and it talks
4 about the Jim Walters case where the rescuers, the other
5 miners, attempted to go up into the area after the
6 initial explosion, and they did so without any kind of
7 gas detectors, methometers or any kind of equipment that
8 would be necessary to go into an atmosphere like that.

9 It's an outgrowth of that accident right
10 there. And in most cases we thought that the equipment
11 and training would be obvious to some extent, depending
12 on the condition you were dealing with, like if you were
13 going into an unknown atmosphere, you would want
14 multigas detectors with those people, and people should
15 know how to use them.

16 If you are setting up a foam generator, the
17 person being sent to do that should be somebody that's
18 familiar with it and knows how to use it. It shouldn't
19 be a guy who has never seen one before. That's what was
20 intended by that.

21 THE SPEAKER: I understand through
22 conversations what your intent was.

23 Let's say I have an explosion. Properly
24 equipped and trained, who do I send in there? Do I have
25 to wait for mine rescue personnel to arrive? Are they

1 properly trained. Can they be under the supervision of
2 somebody who has gas detection? Does every person on
3 that team going in there have to be trained on gas
4 detection?

5 We have people going into a situation where
6 we have people going in to fight a fire. We are not
7 going to have 100 units for gas detection. If we have
8 somebody in charge with gas detection instruments, who
9 is in charge of that, who is making decisions for that,
10 who is in charge of that group going in there to fight
11 the fire, then I think that's prudent, that decisions
12 are being made soundly with people with gas detection
13 instruments.

14 But to say everyone is going to be properly
15 equipped and trained, I can see somebody coming back and
16 saying everybody has to have an instrument with them.
17 Everybody has to have proper training.

18 If I have got support people going in there,
19 I can only have a certain amount of people fighting a
20 fire. I'm going to have to have multiple people back
21 there supporting. The people in there are going to be
22 useless. Are they going to be properly trained and
23 equipped to transport materials in for firefighting?
24 How far do you want to take this?

25 I think you need to explain what you want as

1 far as properly equipped and trained. Is it on a
2 case-by-case scenario, properly equipped for explosion,
3 properly equipped for firefighting? To me, if I am
4 going to be properly equipped, I ought to have at least
5 a gas detection instrument to go in, and knowledge of
6 ventilation or something like that.

7 Just to say I will be properly equipped and
8 trained, I can open that up about as far as you want to
9 take it, and so can an inspector, and then we are going
10 to get into a battle about what is properly equipped and
11 trained. You need to look at that issue.

12 What are you looking at? If you talk about
13 somebody goes into an explosion, they will be properly
14 equipped, then say they will be properly equipped with
15 gas detection equipment for explosion.

16 MR. CROCCO: It's hard to say that in
17 advance. It may be only mine rescue people would be
18 equipped to go in there. It's hard to be too specific.

19 THE SPEAKER: It's hard on my side to be
20 specific what I'm going to train my people when MSHA
21 comes up and says what have you trained and equipped
22 your people with.

23 It opens up the other way also. Our people,
24 in my mind, are properly trained. We have gone through
25 training with people in annual training for years. I

1 think they have an understanding of fighting of fire or
2 explosion or something like that.

3 I agree before someone goes in they ought to
4 have proper gas detection equipment. If you want to
5 leave that left up to the company, we can make that
6 decision. But if you are going to make specifics, then
7 you need to let us know what specifics you want.

8 MR. NICHOLS: With the definition of
9 imminent danger, we tried to put some definition into
10 it. If ventilation is affected.

11 It is not that you could have a particular
12 situation in the mine -- Bill, you will have to help me
13 with this. But the ventilation system; what are other
14 examples?

15 MR. CROCCO: Well, in the Jim Walters case
16 again, it was known after the first explosion that key
17 ventilation controls were out, possible fire arcing at
18 the battery, danger of second explosion; imminent
19 danger, in other words, in that case.

20 You know, what you have there is a condition
21 that could endanger miners due to some unknown condition
22 or some known conditions.

23 THE SPEAKER: I can live with the definition
24 of imminent danger. But if it gets into legal issues,
25 is your definition of imminent danger wanting to cover

1 what you want to cover? That's all I am saying. You
2 need to take a look at that.

3 If I have imminent danger in there, it may
4 not strictly meet that requirement of imminent danger,
5 but I think I know what imminent danger is, and I will
6 respond to that in that manner. Just make sure that
7 both -- we may have something that may be an imminent
8 danger that does not meet the definition of imminent
9 danger per the regulation.

10 MR. CROCCO: Do you think some other wording
11 would be appropriate?

12 THE SPEAKER: I'm not sure if it doesn't.

13 MR. NICHOLS: I think the lawyers are going
14 to make us stick with "imminent danger".

15 THE SPEAKER: I can live with that.

16 MS. HONOR: I just wanted to point out the
17 definition of imminent danger is not something we
18 created for this. It is contained in the Mine Act.

19 THE SPEAKER: It is a condition that
20 happened before you could respond to it. If I have a
21 fire, I already have got a situation I'm responding to.
22 If you want to look at something I'm going to do in
23 response to that, I already have a situation that's
24 happened. Imminent danger is something I address before
25 it happens.

1 MR. NICHOLS: I think we understand your
2 dilemma there.

3 THE SPEAKER: I can live with it. I was
4 just making you aware of it.

5 MR. NICHOLS: Thank you.

6 Anybody else? Come on up.

7 THE SPEAKER: My name is Kerry, K-e-r-r-y,
8 last name Hales, H-a-l-e-s. I'm the general mine
9 foreman, BHP New Mexico Coal, San Juan mine.

10 I think there is a couple of issues here
11 that kind of crossover each other. I know if you look
12 back at the Willow Creek explosion in '99, the shift
13 foreman, who I believe the shift foreman is the person
14 to be in charge of the shift and it needs to be that
15 way, but he was actually on the face and in the initial
16 explosion.

17 So that left us in the monitor room a young
18 man who basically was on restricted duty, knew enough
19 really to acknowledge alarms and make a phone call, and
20 I think that's what happens throughout the industry.

21 We spend all kinds of money on a PED system,
22 communication system, AMS system, conspec, whatever; and
23 the people that actually are in the control room,
24 monitor room, report the trains for the most part.

25 Like at our mine right now we have a PED

1 system, which I fully believe is totally saving lives.
2 We also have a very good radio system, paging phones,
3 all of these things. Plus we run an AMS system, two
4 bundle, a lot of innovative monitor systems to a control
5 room that is mostly staffed with a technician that
6 understands the system.

7 I just feel like that's a piece that needs
8 to be included, his training or some kind of
9 qualifications for that person.

10 Mines are staffing those with security
11 people and warehouse people who have a lot of other
12 things to do. There are just all kinds of things that
13 are going on, and I don't think they are qualified to
14 respond or really understand what's going on with the
15 monitor systems.

16 MR. CROCCO: The reason, Kerry, that was
17 structured like it is, for this responsible person to
18 say that he has a working knowledge of these underground
19 systems, is to ensure that, you know, the security guard
20 or person in the CO room would not be named that person.

21 It has to be somebody for this responsible
22 person in the EPS that has a working knowledge of the
23 underground mine, ventilation escapeways, and those
24 sorts of things. But that's a good point.

25 THE SPEAKER: The shift foreman or mine

1 foreman has to be that person; I agree. But there
2 should be some kind of standard of what training is
3 given to people who are actually in the control room or
4 the monitor room, so that the shift foreman is receiving
5 accurate information.

6 Or if something happens to him, that person
7 at least knows enough about the system to get ahold of
8 somebody and at least be able to tell them what they
9 have. Then call them and say you have a CO warning over
10 here, when there could be all kinds of stuff showing up
11 on the system, ventilation or things, that maybe haven't
12 reached warning or alarm. But there are things that
13 happen that they should be able to recognize.

14 MR. NICHOLS: Thanks. Anybody else?

15 Come on back up.

16 THE SPEAKER: Linc Derick again. You have
17 my name.

18 Just one comment of a possible solution for
19 what Greg Mele brought up. The current regulations also
20 give the provision that any employee can call for an
21 evacuation.

22 So it would seem responsible of the
23 responsible person, that if he was going to be out of
24 touch, that it would be a correct action to call the
25 communication outside that's required in all mines,

1 notify strictly that person that they may be out of
2 touch a half hour walking the bleeders.

3 And if that persons says I have notified CM
4 foreman John Doe that he is responsible and has all of
5 my authority, then he shouldn't have to notify the rest
6 of the mine, because then, since that outside
7 communication person was notified by the responsible
8 person that he has designated an alternative; then that
9 alternative calls outside communication and says
10 evacuate, they are going to treat that as a full
11 authority of the responsible person.

12 I can understand the reason of the
13 responsible person, instead of just leaving it solely as
14 anybody has that authority, because a person may not
15 fully understand is it really an imminent danger or am I
16 overreacting.

17 So having everybody have the authority to
18 evacuate a mine, plus having a responsible person that
19 is knowledgeable enough, that if someone else calls and
20 says this is what's going on, that he interjects we need
21 to evacuate the mine.

22 It would seem like that would be something
23 in a question and answer in the final regs that could
24 address the situation of the responsible person being
25 temporarily out of communications and still meet the

1 intent of the law.

2 It could also be so stated that the person
3 he is designating as an alternate may have to also
4 realize that if he can't interpret the scale and
5 determine whether it needs evacuation, he overreacts and
6 evacuates, that he is not fully up on of every phase
7 that the responsible person is.

8 And it would seem like that that could get
9 us to a reasonable understanding of what the intent of
10 the regulations were, that if a responsible person took
11 that much action to so notify the outside communication
12 person who is his alternate, and the alternate was so
13 notified by the shift supervisor or the responsible
14 person, then I would think that that should address the
15 concerns that we have met the law.

16 MR. CROCCO: Well, if I understand you
17 right, I'm not sure that would meet the intent of the
18 rule. The rule was intended that every miner know who
19 the responsible person was for the shift that he is
20 working on.

21 In your example, I don't see anything wrong,
22 if the responsible person is going to be out of touch
23 for a couple of hours, calling the controller moderator
24 and saying I am going to be in the bleeder two hours;
25 notify the sections and any other regular working places

1 that so and so is going to be the responsible person
2 until noon.

3 I mean that would be just fine. I don't see
4 anything wrong with that.

5 But I don't think another person could be
6 named for an extended period and nobody be notified
7 except the CO room operator. I'm not sure that would
8 meet the rule.

9 THE SPEAKER: If your normal evacuation
10 would come from the outside communication person, that's
11 the normal practice, then the only difference would be
12 that instead of the responsible person telling that
13 person to cause an evacuation, it would be a designated
14 alternate.

15 Now if the mine was so used to that, that
16 the only one they would accept the evacuation was from
17 the designated person, then you are almost in violation
18 of the regulation of anybody can call for the
19 evacuation.

20 These are real-world situations for the
21 responsible person checking on somebody in the bleeders
22 or getting in touch with somebody out of communications,
23 but it seems like that would meet the intent that there
24 is a responsible person mandated to cause an evacuation
25 versus every other miner having the authority to cause

1 an evacuation; that person has the responsibility to
2 insist that it's done.

3 I think as long as that's addressed, that it
4 should address the intent of the regulation.

5 MR. CROCCO: As long as the alternate has
6 that authority and people know who it is, that's just
7 fine.

8 THE SPEAKER: And it's the people know who
9 it is is going to be right back...

10 With that statement, an inspector would take
11 that that communication person outside had better ensure
12 that he or she has notified every single person
13 underground.

14 One exception would be treated as a
15 violation the way the mines are being inspected.

16 MR. CROCCO: I see your problem, but, again,
17 it seems like to me you make your best effort to do that
18 and see that it happens. Maybe before everyone is
19 notified the original responsible person is now back out
20 of a bleeder and back on duty.

21 It was never set up to be a Gestapo-type
22 regulation. The intention is clear, and as long as
23 there is a best effort to get that done, I don't see why
24 there would be any problem. I understand what you are
25 saying.

1 THE SPEAKER: Because of the seriousness of
2 the regulation and what their intent is to improve.

3 On the other side, being an MSHA inspector,
4 it's pretty reasonable to say I have the ability to test
5 the system before an emergency, so it's reasonable to
6 say then I will quiz people if they know who the
7 responsible person is.

8 It's reasonable for one to say I will test
9 the system. Once they test it, and all of a sudden
10 there is a failure, five people out in a certain area
11 didn't know there was a switch of the responsible
12 person, couldn't get ahold of the responsible person,
13 then that inspector is caught in a trap of: Did I test
14 a system, and now I have found a citable condition; or
15 do we treat it as a training situation.

16 That is the real world, something the
17 inspectors say this is. The emergency system can be
18 tested at any time. I believe the intent of this
19 regulation is that there is a responsible person for
20 every shift, and a responsible person that would so take
21 the action of notifying a communication center and his
22 alternate for a short period of time would be deemed a
23 very responsible action.

24 And I think that needs to be considered. If
25 not now in the current temporary standard, in the final

1 standard.

2 I would hope if somebody did that and
3 something happened in that period, that responsible
4 person would say you acted contrary to the regulation by
5 calling out and telling them you were going to be in the
6 bleeders for 30 minutes, that you so notified Joe Brown
7 that he is the responsible person with his authority.
8 I would take that and hope that in the future that is
9 viewed as responsible action.

10 Thank you.

11 MR. NICHOLS: Thanks, Linc.

12 Anybody else? Anybody that has been up
13 before, want to come up and add anything?

14 THE SPEAKER: My name is Gordon Larson,
15 L-a-r-s-e-n. I work at Energy West Mining at Deer Creek
16 mine. I am on the safety committee. Also a mine rescue
17 member for several years.

18 Mine might be a comment more than anything
19 else. We have talked a lot about the training of the
20 people that are going to be going in and fighting fires
21 and whether they are going to be trained and equipped
22 and all of that.

23 I'd like to comment just a little bit about
24 the training that's going to happen at annual retraining
25 for the miners.

1 First off, I would like to applaud MSHA for
2 recognizing this problem that exists and trying to do
3 something about it.

4 Knowing miners the way I do though, and
5 seeing their attitudes, maybe is a good word for it, at
6 annual retraining, I'm not sure that you will get a lot
7 of miners who will want to take time out of their lives
8 to go be adequately trained to fight a fire, but in the
9 mining industry there has never been a shortage, once a
10 disaster of any kind happens, that there is never a
11 shortage of people willing to volunteer.

12 My concern maybe is do we need to stick some
13 kind of guidelines on the training that's being done on
14 our annual refresher course for the average miner who is
15 probably not going to want to volunteer to be trained to
16 fight a fire or respond to a disaster, but is also going
17 to feel a responsibility to go and help his fellow
18 miners, much like what happened at Jim Walters.

19 I think we need to put a special emphasis,
20 at least at the start of it this process, on training
21 all of the miners to the fact that when they are called
22 for, evacuation, emergency evacuation because of an
23 imminent danger, that the best thing for them to do in
24 helping maybe, will be to go ahead and evacuate, and
25 then see what they can do from the surface.

1 To kind of back up what Kevin was talking
2 about a little bit, I think there will be a lot of jobs,
3 even in a serious mine fire, that the average miner, who
4 doesn't want to be trained and doesn't want to be front
5 line help, will be able to do.

6 I would like to see the guidelines at least
7 set up a little bit where the person who wants to
8 volunteer to help as much as he can, but doesn't want to
9 go that extra step and be trained as a firefighter, to
10 be able to stay in the mine or return to the mine to
11 help bring materials, equipment, oxygen bottles,
12 whatever it's going to take, more firefighting
13 equipment, help in any way that they can.

14 That's all.

15 MR. NICHOLS: Thanks, Gordon.

16 I'm not sure we ever felt like there was a
17 real problem with firefighting once you get the miners
18 out of the mine and regroup and go back to fighting the
19 fire. There is plenty of good, capable mine rescue
20 teams.

21 The problem we are trying to get at with the
22 rule is somebody needs to make a decision on this
23 emergency situation to evacuate the mine and get back
24 and take a look and regroup, rather than have people
25 that aren't equipped, to run in, as hard as it is not to

1 want to go back in and try to do rescue work, but be
2 prepared to do it.

3 That's what we were trying to get at with
4 this rule.

5 Do you guys want to add anything?

6 Anybody else? Anybody want to add to their
7 previous comment?

8 We are going to stay around here until at
9 least noon in case, as I said earlier, people are
10 traveling in. If we do not have anyone else show up
11 wanting to give us comments, we will end this around
12 noon.

13 Thanks everybody for showing up. Thanks for
14 your comments.

15 (The proceeding was in recess until 11:58
16 a.m.)

17 MR. NICHOLS: It's 12 o'clock noon. Does
18 anybody else want to present comments?

19 Okay. That concludes the meeting. Thanks.

20 (The proceeding was concluded at 12:00
21 noon.)

22 //

23 //

24 //

25 //

1 REPORTER'S CERTIFICATE

2 I, Teresa A. Copley, Certified Reporter, State
3 of Colorado, do hereby certify that I was present and
4 recorded the foregoing proceedings in stenotypy; that
5 thereafter it was reduced by computer-aided
6 transcription; that the foregoing transcript is a true
7 and accurate transcript of my stenotype notes.

8 Dated this _____ day of _____,
9 2003.

10
11 _____
12 TERESA A. COPLEY, CSR
13
14
15
16
17
18
19
20
21
22
23
24
25